IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL SECOND APPEAL NO.179 OF 1999

Heera Lal & Others Versus Jamana Bai & Others

DATE OF ORDER :: 31.10.2006.

HON'BLE MR. NARENDRA KUMAR JAIN, J.

Mr. Rajendra Prasad, Counsel for plaintiff-appellants
Mr. S.K. Jain, Counsel for defendant-respondents

By the Court :

Heard learned counsel for both the parties.

The plaintiff-appellants instituted a suit for partition in respect of the disputed house, which was decreed by the learned Lower Court. However, on an appeal filed on behalf of the defendants, the learned First Appellate Court reversed the finding of the Lower Court and dismissed the suit of the plaintiff-appellants. Hence, this second appeal has been preferred on behalf of the plaintiffs.

I have considered the submissions of learned

counsel for the plaintiff-appellants in the light of the finding of the learned First Appellate Court, who has specifically recorded that the plaintiffs have not produced any documentary evidence in support of their contention that the disputed house was the ancestral property of the plaintiffs. The learned First Appellate Court after appreciating the evidence adduced on behalf of the parties has recorded a finding of fact that the disputed house was not the ancestral property of both the parties.

The question involved in the present case relates to the question of facts and there is a finding of fact by the First Appellate Court, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

No illegality or perversity has been pointed out by the learned counsel for the plaintiff-appellants in the judgment and decree passed by the First Appellate Court.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed at the admission stage itself with no order as to costs.

(Narendra Kumar Jain) J.

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